



NORTHAMPTON LICENSE COMMISSION

NOVEMBER 4, 2009

Minutes

*Commission Chairman Brad Shimel, Commissioner William Rosen,
Commissioner Stephanie Levin*

At 4:00 p.m., Commission Chairman Brad Shimel called the meeting to order on the following items:

1. APPLICATION FOR SHORT TERM WINE & MALT LICENSE

Academy of Music Theatre

274 Main Street, Northampton

EVENT: Commonwealth Opera Production of "Cosi Fan Tutti"

DATE of Event: Friday, November 20, 2009 and Sunday, November 22, 2009

TIME of Serving: Friday, 6:00 p.m. – 11:00 p.m.

Sunday, 12:30 p.m. – 6:00 p.m.

LOCATION of Event: Academy of Music

FEE: Request Fee Waiver

(Liquor liability insurance is current, and Servers' Certificates are on file at License Commission office)

Gail Yacuzzo was present for the application. Commissioner Shimel questioned how many applications have been approved this year? The clerk stated 23, but after the meeting re-checked the number, and found that the correct number to date is 13, including the above two dates. Ms. Yacuzzo explained that the Academy does not find it feasible to apply for and obtain a Seasonal Wine & Malt license as these events are unpredictable in sales, and often do not make money for the event. Some of the Academy's busiest events would occur during the dry portion of a Seasonal license (January 15-March 30).

Commissioner Levin moved approval of the application, with fee waived; Commissioner Rosen seconded. The vote passed unanimously (3-0).

2. APPLICATION FOR COMMON VICTUALLER LICENSE

Eclipse 186 Main, LLC

Owner: Jean M. Weller

Premises Address: 186 Main Street, Northampton

FEE: \$40.00

Zach Gorman, manager, was present for the application. The owners are renovating the premise with a new kitchen and setup for sit-down dining for lunch and dinner. The menu will be high-end at affordable prices. Mr. Gorman has spent 20+ years in the restaurant business, most recently running the Worthington Golf club.

Commissioner Rosen moved approval of the application; Commissioner Levin seconded. The vote passed unanimously (3-0).

The Clerk noted that the owners have also submitted an application for a Weekday Entertainment license. The Commission gives Weekday Entertainment licenses for liquor-licensed establishments only at this time. The Commission advised the Clerk to pursue this with the Mayor's office.

3. CITIZEN COMPLAINT REGARDING NORTHAMPTON B.P.O.E. #997

Commissioner Shimel opened the discussion by referencing the attached letter of complaint by Ms. Marlene Morin, 121 Florence Road, Florence, and noted the citizen's complaint of loud music, traffic issues and her request to revoke the sale of alcohol of the licensee due to "Cruise Night" rallies.

Councilor Marianne LaBarge spoke on behalf of the citizen's complaint. Councilor LaBarge noted that previous complaints resulted in a Stop Sign placement, and this was helpful. Councilor LaBarge stated that she visited Ms. Morin's home during one such rally and heard the noise herself. Councilor LaBarge noted that Ms. Morin is a resident of Ward 6, which Councilor LaBarge represents, and Ms. Morin's concerns are of great concern to Councilor LaBarge, as well. Councilor LaBarge thanked the Commission for holding this hearing.

Commissioner Shimel stated that this meeting is only for discussion, and is not a hearing. No violations have been reported by the Northampton Police Department to this Commission.

Marlene Morin spoke to the Commission of her complaint and concerns. She stated that these rallies get bigger and louder each summer. She stated that every Thursday, from at least 5:30 p.m. – 9:00 p.m. or later, the noise and traffic are disturbing. She stated that the parking lot is often overflowing. She has seen cars speeding down Florence Road, but has never seen police give tickets. She suggested that the Elks should be audited, checked for compliance to Ordinance rules, and that the rally could be held elsewhere such as on King Street. She suggested that the Elks do not benefit the neighborhood with these rallies.

Commissioner Shimel asked Ms. Morin what she would like to have happen? Ms. Morin replied that she wants the rallies to be gone. She stated that the Elks members do not listen to her concerns. She has called the police, and stated that the Dispatcher gave her a difficult time and said, "This is Cruise Night". Ms. Morin stated that no one is ever stopped and should be given field sobriety checks. She suggested there is a "cops taking care of cops" attitude.

Mr. Edward Cooper spoke on behalf of the Elks to the suggestion that some are driving under the influence: he stated that members are police officers and former police officers, and no one drives under the influence as members police themselves. All members use moderation.

Mr. Cooper stated that he is one of the founders of "Cruise Night" and the Elks have been part of Northampton for 100 years. The Elks makes money with dues, bingo nights, banquet hall, and the lounge. Cruise Nights began in the summer of 2003 and are for families. There are usually

30-40 children in attendance. Activities are all family-oriented. Mr. Marshall is a professional DJ and all speakers are pointed away from residences. The money raised from Cruise Nights goes to the community and youth and elderly. All members volunteer their time for these events. At least 10 members are ServSafe Certified, and in five years have never had to shut anyone off from liquor consumption. The Elks observes all State laws, local Ordinances, and rules of their licenses. Mr. Cooper listed all complaints since June 2004 to Police, and stated that Ms. Morin was the only resident to complain. Mr. Cooper also stated that Councilor LaBarge has never approached them with concerns. Two meetings were arranged with Ms. Morin last year, which she failed to attend. The median age of participants in Cruise Night is age 60, and this group does not tolerate drunkenness or loud music.

Mr. Costello spoke on behalf of the Elks. He stated that this complaint sounds like a direct assault on the Police. He stated there is no "conspiracy" or "cops taking care of cops" as members served and protected the public for a living. He stated that most children in attendance at Cruise Night are age 10 and under, and this is definitely a family event. The proceeds of these events help to fund two \$1,000 scholarships in conjunction with Snap-On Tools.

Mr. Greg Zachuzewski spoke to the Commission. He lives 6/10 mile from the Elks Lodge. He has heard the music, but can hear music from Look Park, also. He suggested that all parties try to resolve these problems. The Elks is second in giving out scholarships and gives to the community in exorbitant amounts of time volunteered by its members. These Cruise Nights are social and beneficial events for the community.

Mr. Costello again noted that the Elks tried to meet with Ms. Morin and address her concerns, but that she did not attend the meetings.

Ms. Morin stated that she would be happy to meet with the Elks, but not on rally nights. She stated that it is intimidating to go to the lodge for these meetings.

Commission Shimel stated that the goal of this discussion is to have the issues stated. The speakers primarily have issues regarding the noise, music and cars, but not issues relating to alcohol.

Ms. Morin again questioned the use of alcohol outdoors, and noted that traffic increases when the rally ends. The Elks license does allow alcohol outdoors.

Councilor LaBarge again stated that she was asked as a City Councilor to represent this citizen. She has heard other complaints and came here to help work out these issues.

Mr. Costello stated that the citizens should talk directly to the Elks club, not through the License Commission.

Commissioner Shimel stated that it would be a sensible idea for all parties to find a neutral ground to talk about these concerns and issues. This is not an alcohol-related issue.

Commissioner Levin stated that this situation is a "both can be true" in that the event is a family night, but also creates issues for residents. She suggested that Councilor LaBarge may want to be involved in the neutral ground meeting of all parties. There is time between now and June 2010 to resolve this situation.

Commissioner Rosen stated that issues brought forward tonight included alcohol and noise. He doubts that anyone would let others drive off under the influence, and the noise issue is for the neighborhood to address. There is time to resolve this among the parties.

Commissioner Shimel stated that this discussion should not be through the License Commission, but that all parties should talk directly by "dealing in good faith" and get to a resolution.

As Councilor LaBarge questioned the License Commission's involvement, Commissioner Shimel stated there is none at this time. There is a need to talk about specific measures for the Elks and the citizens. He stated that the Elks run a commendable program, but the citizens have issues. He hoped that the Councilor would be willing to act as coordinator for this meeting.

After further discussion, Commissioner Shimel stated that the License Commission would take no action. The parties should all meet for discussion on neutral ground. The License Commission holds no hearings unless violations of liquor laws occur and are requested by Police.

Ms. Morin questioned when the liquor license renewal hearing would be held? Commissioner Shimel responded that all licensees renew annually, no hearings are held.

Commissioner again stated that good faith on all sides is the best resolution of these issues.

4. APPROVAL OF OCTOBER 7, 2009 MINUTES

Commissioner Levin moved approval of the minutes; Commissioner Rosen seconded. The vote passed unanimously (3-0).

5. NEW BUSINESS - none

At 5:07 p.m., Commissioner Shimel moved to adjourn and was seconded by Commissioner Rosen. The vote passed unanimously (3-0).

NEXT MEETING IS DECEMBER 2, 2009 AT 4:00 p.m.

*Respectfully submitted,
Mary L. Midura
Executive Secretary*

received
9/8/09 mm

September 3, 2009

City of Northampton
LICENSE COMMISSION
210 Main Street
Northampton, MA 01060

Re: Northampton Lodge B.P.O.E. #997

Dear Madam/Sir,

I hereby renew my request that the License Commission suspend the ELK's outdoor liquor license. My neighborhood is invaded every Thursday evening all summer by loud, reckless, and lawless motorists. The music and announcements are so loud at times that it interferes with the quiet enjoyment of my residence. The Rally attracts an increase in traffic to an already traffic stressed neighborhood. The particular type of traffic the Rally invites and attracts is loud and fast. I can hear from my residence on Florence Road what appears to be drag racing during the hours of the Rally. I am frightened for the children, animals and appropriate motorists. The music at times is so loud that it appears to be played in my yard. To cope with the nuisance I have been forced to stay away from my home.

Specifically, on August 27, 2009, I called the Northampton Police Department at 7:30 PM and complained that a 57 Chevy accompanied by two very loud Harley Davidson motorcycles travelled at an estimated 50 miles per hour south on Florence Road. Not only were they exceeding the 30 mph speed limit, they were extremely loud. The police department was not able or willing to control the loud music and speeches by the disc jockey or the traffic. As you know, the Rally is run by retired police officers and attended by many active police officers. The Elks profits from this weekly "drive up" bar. This activity belongs at the fair grounds once a year, NOT EVERY THURSDAY evening.

Please visit my home on a Thursday evening from 5:30 to dusk to hear and see how the neighborhood has been transformed by the sale of liquor to motorists.
PLEASE ORDER THE LODGE TO STOP THE RALLY.

Resident of Florence for over twenty years.

CC: Mayor Higgins and Mr. Bardsley



Marlene Morin
121 Florence Road
Florence, MA 01062